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OFFICE OF PETITIONS

In re Application of
John Korbler and Xuegang Geng
Application No. 10/699,042
Filed: October 31, 2003
Attorney Docket No.
Title: SUBSTRATE PROCESS TANK WITH
ACOUSTICAL SOURCE TRANSMISSION AND
METHOD OF PROCESSING SUBSTRATES

DECISION REFUSING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION TO ACCEPT DECLARATION UNDER
37 CFR 1.47," filed April 1, 2004.

The petition is DISMISSED.

Rule 47 applicant is given TWO MONTHS from the mailing date of
this decision to reply, correcting the below-noted deficiencies.
Any reply should be entitled "Request for Reconsideration of
Petition Under 37 C.F.R. § 1.47(a)," and should only address the
deficiencies noted below, except that the reply may include an
oath or declaration executed by the non-signing inventor.
Failure to respond will result in abandonment of the application.
Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on October 31, 2003,
without an executed oath or declaration and missing the statutory
basic filing fee. Accordingly, on February 2, 2004, applicants
were mailed a "Notice to File Missing Parts of Nonprovisional
Application," requiring submission of an executed oath or
declaration, payment of the filing fee and payment of the
surcharge for late filing under § 1.16(e).

In response, rule 47 applicant timely filed the instant petition,
along with payment of the petition fee, the basic filing fee, and
the late surcharge. On petition, applicant asserts that status
under § 1.47(a) is proper because inventor Geng refuses to join
in the application. In support thereof, applicant submits a
declaration of facts of patent attorney Brian Belles.

A grantable petition under 37 C.F.R. § 1.47(a) requires; (1)
proof that the non-signing inventor cannot be reached or found,
after diligent effort, or refuses to sign the oath or declaration
after having been presented with the application papers
(specification, claims and drawings); (2) an acceptable oath or
declaration in compliance with 35 U.S.C. §§115 and 116; (3) the
petition fee; and (4) a statement of the last known address of
the non-signing inventor. The instant petition does not satisfy
requirement (2).

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Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent attorney Belles, petitioner has shown that the application papers were presented to patent attorney Leo Clossey for inventor Geng. The declaration (and supporting exhibits) supports a conclusion that by his conduct, in not responding, inventor Geng has refused to join in the application. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Geng.

However, the petition does not include an acceptable declaration. Pursuant to 35 U.S.C. 115 and 37 CFR § 1.63(a)(3), an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. Although the declaration submitted identifies by name and mailing address and/or residence inventor Geng as a joint inventor, the declaration does not include the citizenship of inventor Geng. (The space where his citizenship would be entered is blank).

The requirement for the citizenship of inventor Geng is statutory and cannot be waived. A new declaration is required.

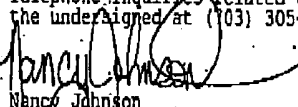
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows: U.S. Patent and Trademark Office, 220 20th Street S. Customer Window, Mail Stop _____, Crystal Plaza Two, Lobby, Room 1803, Arlington, VA 22202..